



UNITED STATES PATENT AND TRADEMARK OFFICE

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Staas & Halsey
Suite 700
1201 New York Avenue
Washington DC 20005

In re Application of	:	
FUKUI et al.	:	
Application No.: 10/550,489	:	DECISION
PCT No.: PCT/JP2003/003987	:	
Int. Filing Date: 28 March 2003	:	
Priority Date: None	:	
Attorney's Docket No.: 1466.1104	:	
For: PHOTOGRAPHING APPARATUS	:	
PHOTOGRAPHING METHOD AND	:	
COMPUTER PROGRAM	:	

This decision is in response to applicants' "PETITION TO THE DIRECTOR UNDER 37 C.F.R. SECTION 1.182 REQUESTING CONVERSION OF A 371 APPLICATION INTO A 111(A) APPLICATION" filed 09 August 2006.

BACKGROUND

On 28 March 2003, applicants filed international application PCT/JP2003/003987, which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 14 October 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 28 September 2005.

On 26 September 2005, applicants filed a transmittal letter for entry in to the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a declaration of inventors.

On 14 June 2006, a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495 (Form PCT/DO/EO/903) showing a 35 U.S.C. 371 date of 26 September 2005 was mailed.

On 09 August 2006, applicants submitted the instant "PETITION TO THE DIRECTOR UNDER 37 C.F.R. SECTION 1.182 REQUESTING CONVERSION OF A 371 APPLICATION INTO A 111(A) APPLICATION".

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such. The official PTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.

* * *


If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111.

The transmittal letter filed on 26 September 2005 identified the application as "a filing under 35 U.S.C. 371." There were no conflicting instructions. Accordingly, the application was properly treated as a filing under 35 U.S.C. 371. U.S. Statutes and Regulations do not make specific provision for the requested action and as such the Office does not grant such petitions for conversion as a mere matter of course. The Office will only grant such petitions upon a showing by applicant of sufficient cause (e.g., the loss of patent rights) where no other remedy is available. Here, no showing of cause has been made.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.182 is **DISMISSED** without prejudice.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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